IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 650 of 2005

Between:

Kandula Grace Mercy, D/o David Raju,
Village Nagullamudupu, Tarlapadu Mandal, Prakasam District.

..... PETITIONER

AND

1 The Revenue Divisional Officer, Kandukur Division, Kandukur (Post & Mandal), Prakasam District.
2 The Joint Collector, Ongole,Prakasam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order, direction more particularly one in the nature of Writ of mandamus declaring the order of 1st Respondent in RCF/2553/04 dt. 2-12-2004 suspending the authorisation of the petitioner as illegal, arbitrary and without jurisdiction and consequently direct the Respondents to permit the petitioner run the Fair Price Shop at Nagellamudupu village.

Counsel for the Petitioner : MR.S.SIVA PRASAD

Counsel for the Respondents 1 and 2 : GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

The authorization of the petitioner in respect of a fair price shop was suspended by the 1st respondent through order, dated 02-12-2004. Aggrieved thereby, the petitioner preferred an appeal before the 2nd respondent. She also filed an application for stay. The grievance of the petitioner is that the 2nd respondent has not passed any order so far.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

The 1st respondent has issued a show cause notice obviously in compliance of Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001. The petitioner submitted her explanation to the charges levelled against her. The 1st respondent was not convinced with the explanation offered by the petitioner, and as such, suspended the authorization of the petitioner.

The suspension of an authorization after issuance of show cause notice can only by way of a substantive penalty and not as a measure pending enquiry. Whenever suspension is ordered as a measure of substantive penalty, it is required to be for a specified period. The 1st respondent did not indicate the period for which the authorization of the petitioner is suspended. In the absence of the same, it tends to operate almost as an order of cancellation. Hence, there exists a *prima facie* case in favour of the petitioner for grant of interim orders pending the appeal before the 2nd respondent.

Therefore, the writ petition is disposed of directing that the order, dated 02-12-2004, passed by the 1st respondent against the petitioner shall remain stayed pending disposal of the appeal by the 2nd respondent. There shall be no order as to costs.

27-01-2005

GJ

To

1 The Revenue Divisional Officer, Kandukur Division, Kandukur (Post & Mandal), Prakasam District.
2 The Joint Collector, Ongole,Prakasam District.

3 Two C.Cs. to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

4 Two C.D. copies.